

## ***FWP COMMISSION AGENDA ITEM COVER SHEET***

**Meeting Date:** April 14, 2011

**Agenda Item:** Placement of Water Obstacles Administrative Rule

**Division:** Enforcement

**Action Needed:** Final Adoption of Rule

**Time Needed on Agenda for this Presentation:** 10 minutes

### **Background**

Under Montana Code Annotated 23-2-501 is the policy of the state to promote boat safety on Montana waters. With this in mind Montana has seen an increase in people placing objects on state waters that may create a hazard to other recreational boaters. Specifically the placement of slalom courses in western Montana waters. Code Annotated 23-2-525 states “A person may not anchor a vessel or other obstacle for fishing or pleasure purposes on any body of water over which the state has jurisdiction in a position that obstructs a passageway ordinarily used by other vessels.” This statute is vague and leaves plenty of room for interpretation of what is a passageway. Other western states are seeing an increase for requests for putting up jumps/rails which would really create a safety hazard for recreational boating if people started placing these types of devices on state waters.

### **Public Involvement Process & Results**

The commission approved proposing language for an administrative rule at the January 13, 2011 meeting. Notice was published in the Montana Administrative Register, Fish, Wildlife and Parks' website, and sent to interested persons as required in the Montana Administrative Procedures Act. A public meeting was held on February 23rd in Helena but nobody attended. No public comment was received during the public comment period.

### **Alternatives and Analysis**

- Adopt the proposed rule language with limited restrictions on the placement of obstacles on state waters to prevent water obstructions creating safety hazards and limiting recreation.
- Don't adopt the proposed rule language. Montana will see an increase in people putting out slalom courses and possibly other devices that will create conflicts between recreational boaters, fishermen and possibly land owners. These devices may also create hazards for recreational boaters and fishermen.

### **Agency Recommendation & Rationale**

The department recommends adopting the proposed rule language.

### **Proposed Motion**

I move the commission adopt the proposed rule language establishing criteria for placement of water obstacles.